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# Governance and collective agreements

## Introduction: Securing and enforcing collegial rights

Academic staff associations have a central role to play in protecting and fostering members' ability to participate fully in the collegial governance of their institutions. Indispensably, this includes negotiating terms and conditions of employment that secure collegial rights.

Associations should:

- review the health of their agreements' collegiality provisions
- identify areas for improvement
- organize members to press for gains
- enforce collegial rights through the grievance process when necessary

Collective agreements can help create the enabling conditions for meaningful collegial governance both by securing members' collegial participation rights and by imposing obligations on the employer to support and recognize this participation. Collective agreements should also contain provisions to ensure that governance processes (such as institutional planning, policy development, and academic administrator searches):

- proceed under the auspices of the appropriate collegial governance bodies
- are appropriately resourced
- are open
- provide opportunities for robust academic staff participation

## Article categories relating to collegial rights and governance

### Foundational provisions

While not specifically about governance, the following are among provisions that are essential to establishing conditions for meaningful collegial governance:

- Fair employment and complement renewal language that helps ensure the existence of an academic staff complement with stable employment, job security and tenure, and workloads that afford the opportunity to each member to participate in their share of the service workload.
- Strong equity provisions that help ensure a diverse and inclusive workplace, including within governance forums and collegial processes.
- Strong academic freedom language that includes protection of members' intramural and extramural speech, including speech that may challenge or criticize the institution, its governance, or its management.

### Employer recognition of collegiality and collegial governance

The following may help in establishing a shared understanding of collegial governance, and in applying or interpreting other provisions of the collective agreement. Such provisions should generally be included as part of a "collegial governance and management rights" article:

- A statement that the parties are committed to the principle of collegiality (defined as the full participation of academic staff in the institutional processes that shape the conditions of academic work) and to a collegially governed institution.<sup>1</sup>
- A recognition that the retention of management rights by the employer does not obviate the need for the institution's governance bodies to provide governance oversight of the institution and its management, including but not limited to the academic affairs of the institution.

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<sup>1</sup> Although this may be a general statement, note that, with respect to other matters such as equity in the workplace, Indigenization, etc., similarly general commitments can be found in existing collective agreements.

- A requirement that, to the extent legislation and the collective agreement are silent on such matters, decisions about collegial processes<sup>2</sup> and academic matters are to be the purview of the senate.<sup>3</sup>
- A requirement that government relations concerning potential changes to legislation (for example, university acts and charters) must occur transparently and with the full knowledge and participation of governance bodies and academic staff associations.

## Member collegiality rights

Collective agreements should articulate members' rights to participate in governance and collegial process, without loss of important rights and protections. Important clauses include:

- The right to participate in governance and collegial processes, whether directly or through standing for appointment or election, including articles that:
  - State that academic staff members "have the right to participate in the formulation and approval of institutional plans and academic policy as members of duly constituted bodies and committees at the departmental, faculty, and university level" and the right of all academic staff to be informed of and to provide input during planning and policy-development processes.
  - Document the right of academic staff to participate in academic administrative search and reappointment committees, including for the president, the right of all academic staff to be informed of and to provide input during these processes, and employer obligations consistent with collegial search processes, as described in the CAUT [Policy Statement on Academic Administrative Searches](#).
  - Secure opportunities for contract academic staff, with compensation for service.
  - Secure rights of participation for librarians, archivists and other members of the academic staff.
- The right of members serving on governance bodies to:
  - bring forward and have discussed questions and business items

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<sup>2</sup> For example, faculty hiring and complement renewal, peer review, program development and review, workload and resource allocation, collective efforts to develop and improve pedagogy and scholarly practice, etc.

<sup>3</sup> Or relevant governance body responsible for academic policy within the institution.

- consult with and inform members of constituency groups or the electorate
- Recognition that a member's participation on an internal institutional body does not constitute a prima facie conflict of interest or "structural conflict" and that participation must not be limited solely on the grounds of academic staff membership.
- Members' retention of bargaining unit status while serving in governance roles (for example, on a board of governors), including:
  - Retention of academic freedom rights, as conferred by the collective agreement, thus protecting intramural and extramural speech
  - Rights to representation and to grieve

### **Employer obligation to support collegial governance**

There are several collective agreement provisions to be negotiated that mandate the employer's support for collegial governance, including:

- The obligation to maintain express policies,<sup>4</sup> approved by both the board of governors and the senate, for the development and approval of institutional plans, policies, etc., which require:
  - That the institution and its administration clearly identify when policy-related processes are expected to be initiated
  - That all academic planning and academic policy development be conducted under the authority of the senate
  - Early consultation steps and open input stages with the senate and broader campus community
  - That all plans/policies must go to the senate for final decision or, in the case of board-decided policy, for recommendation
  - Minimum numbers of working days to review and, if desired, to comment on draft policies and plans
  - That the academic staff association's exclusive authority to bargaining terms and conditions of employment is protected<sup>5</sup>

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<sup>4</sup> See the "Development and Approval of Institutional Policy" section of this library for more information.

<sup>5</sup> See the [CAUT Bargaining Advisory on The Negotiation of Institutional Policies](#).

- The ongoing obligation to ensure transparency and reporting to the senate and the academic staff association,<sup>6</sup> including:
  - The provision of regular reports on finances and budgeting, enrolments, employee complement, workload and student affairs<sup>7</sup>
  - The right of senate and its committees to request and receive information and reports from the administration
  - The right of the academic staff association to the agendas, minutes and documents from all meetings of the board of governors, the senate and related governance bodies
  - The identification and disclosure of administrative committees and working groups to the senate and the academic staff association, which are to be limited to operational matters
  - The use of consultants and other external service providers
  - Government relations, such that management and board members will not engage in or provide submissions in response to government consultations without first informing and engaging in consultations with the board and the senate
  - The right of the academic staff association to address and provide submissions to the board
- Agreement on institutional operations and governance in exceptional conditions, such as conditions of financial exigency,<sup>8</sup> public health emergencies, etc.<sup>9</sup> This could include, for instance:
  - Requiring that governance bodies provide clear and limited delegation of authority where delegation is required
  - Requiring the bargaining of a time-limited memorandum of understanding with the academic staff association (which includes the right to grieve)

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<sup>6</sup> For more information and examples of collective agreement language, see the [CAUT Bargaining Advisory on Ensuring Financial and Operational Transparency](#).

<sup>7</sup> See the "Institutional Planning, Budgeting, and Finances" section of this repository for details.

<sup>8</sup> See the CAUT [Policy Statement on Financial Exigency and Lay-offs](#) and the Bargaining Advisory on Financial Exigency, located in the members-only section of the CAUT website (<https://www.caut.ca/members-only/collective-bargaining/bargaining-advisories>).

<sup>9</sup> See <https://www.caut.ca/content/covid-19-and-academic-workplace-questions-answers#15> and <https://www.caut.ca/content/covid-19-resources-member-associations>. Note that academic staff associations should be vigilant about the indefinite use of emergency operations centers for managing institutional affairs, which may bypass collegial processes and other bodies. Note that legislation requires consultation with a campus joint occupational health and safety committee.

- Agreement on the processes to be followed in the case of possible program redundancy, restructuring or redeployment of academic staff, ideally in accordance with the CAUT [Policy Statement](#) on these matters.
- Requirement to establish joint board-senate bodies and other initiatives for improving governance.

### **Recognition of service**

- It is important that time spent on collegial governance be recognized by the employer. Important collective agreement clauses on this point provide for:
  - Explicit recognition that participation in governance constitutes service as part of overall workload in fulfilment of employment duties, and that it may be used as evidence of satisfactory or exemplary completion of employment duties (for example, for the purposes of appointment, tenure, promotion, etc.).
  - Release time for those who undertake especially time-consuming governance roles, such as governors, senate committee chairs, etc.
  - Opportunities for contract academic staff to participate, and to be compensated for participation.

### **Other**

The collective agreement should ensure that institutional processes that shape the conditions of academic work, including those not carried out by a formal governance body, are sufficiently collegial. These include processes for:

- faculty hiring and complement renewal
- all forms of peer review, including for tenure and promotion
- program and curriculum development and review, including the use of performance evaluative instruments (subject to any provisions in the collective agreement)
- allocation of workload, leaves and other resources

Committees relating closely to matters of member working conditions should have academic staff association appointees and should be subject to provisions that allow committee work to be monitored.